Ibraco Properties Sdn Bhd v Superintendent of Lands and Surveys Kuching Division, Kuching

HIGH COURT (KUCHING) — KCH-15–2/5 OF 2014
RHODZARIAH BUJANG J
5 FEBRUARY 2016

Land Law — Acquisition of land — Compulsory acquisition — Objector's land acquired by respondent for road construction — Respondent paid compensation to objector which objector accepted in protest — What was market value of objector's land — Whether market value to be calculated at date of s 48 gazette notification or date of inquiry — Land Code (Cap 81) s 48

The present action was commenced by the objector arising out of their dissatisfaction with the award of compensation paid to them by the respondent for the compulsory acquisition of five parcels of the objector's land ('the objector's land') pursuant to a *gazette* notification dated 31 October 2002 made under s 48 of the Sarawak Land Code. At the time the *gazette* was published, the lands were classified as native area land, but on 23 January 2003, they were re-classified as mixed zone land and the effective date of the re-classification was on 9 November 2002 which was nine days after the *gazette* notification. For the purpose of the acquisition, the respondent conducted an inquiry and valued the objector's lands at RM30 per sqm based on its original classification and assessed the compensation at RM385,134 which was accepted by the objector under protest, hence the present action. In the present action, the objector brought evidence as to the comparable sale of land by the objector for Lots 3482 and 3486, which location both of these parcels were near to the objector's lands in the present action. The issue for court's determination was on the time frame when the market value of the objector's lands should be considered, was it as at the date of the s 48 *gazette* notification or as at the date if the inquiry.

Held:

(1) The Court of Appeal had in *Jais bin Chee & Ors v Superintendent of Lands and Surveys Kuching Division, Kuching* [2014] 6 MLJ 439 held that when the inquiry was not done within a reasonable time frame from the date of the s 48 *gazette* notification, the market value of the land must be considered at the time when the inquiry was held. The fact in the present case distinguished the application of the ratio in the cited case because the intervening period of eight months could still be considered as reasonable. Therefore, as at that date of the s 48 *gazette* notification, the said lands were still classified as native area land and not mixed zone land. Nonetheless, premised on the fact and given the sheer proximity of the

date when the reclassification to mixed zone land was made effective which was nine days, the change in land classification must be factored into the assessment on the market value of the land (see paras 6 & 8).

(2) The court was of the view that Lot 3486 was the best comparable sale because it was nearest to the objector's land. The fact that the sale of Lot 3486 was made in 2000 whereas that of the acquisition on 31 October 2002 was almost two years later, this justified that an upward adjustment to its sale price since there was always an increase in land value with the passing of time. Thus, the market value of the objector's land as at the date of the s 48 *gazette* notification was RM40 per sqm (see paras 13–14).

[Bahasa Malaysia summary

Tindakan ini dimulakan oleh pembantah berbangkit daripada ketidakpuasan hati dengan award pampasan yang dibayar kepada mereka oleh responden bagi pengambilan wajib lima bidang tanah pembantah ('tanah pembantah tersebut') berikutan pemberitahuan *warta* bertarikh 31 Oktober 2002 yang dibuat di bawah s 48 Kanun Tanah Sarawak. Pada masa *warta* diterbitkan, tanah-tanah tersebut diklasifikasikan sebagai tanah kawasan anak negeri, tetapi pada 23 Januari 2003, ia diklasifikasikan semula sebagai tanah zon campuran dan tarikh berkuat kuasa pengklafikasian semula adalah pada 9 November 2002 yang mana adalah sembilan hari selepas pemberitahuan *warta*. Bagi tujuan pengambilan tersebut, responden menjalankan siasatan dan menilai tanah-tanah pembantah pada RM30 satu meter persegi berdasarkan atas klasifikaisan asal dan menaksir pampasan pada RM385,134 yang mana diterima oleh pembantah di atas protes, maka tindakan ini. Dalam tindakan ini, pembantah mengemukakan keterangan terhadap jualan bandingan tanah oleh pembantah bagi Lot 3482 dan 3486, yang mana lokasi kedua-dua bidang tanah ini berhampiran tanah-tanah pembantah dalam tindakan ini. Isu untuk penentuan mahkamah adalah atas rangka masa bila nilai pasaran tanah-tanah pembantah patut dipertimbangkan, adakah pada tarikh s 48 pemberitahuan *warta* atau pada tarikh siasatan tersebut.

Diputuskan:

(1) Mahkamah Rayuan dalam kes *Jais bin Chee & Ors v Superintendent of Lands and Surveys Kuching Division, Kuching* [2014] 6 MLJ 439 memutuskan bahawa apabila siasatan tidak dilakukan dalam rangka masa munasabah dari tarikh s 48 pemberitahuan *warta*, nilai pasaran tanah tersebut mesti dipertimbangkan pada masa apabila siasatan dijalankan. Fakta dalam kes ini membezakan permohonan ratio dalam kes yang dirujuk kerana tempoh pencelahan lapan bulan masih dipertimbangkan sebagai munasabah. Oleh itu, pada tarikh s 48 pemberitahuan *warta*, tanah-tanah tersebut masih diklasifikasikan sebagai tanah kawasan anak negeri dan bukan tanah zon bercampur. Walau bagaimanapun, berdasarkan atas fakta dan mengambil kira

kedekatan jelas tarikh apabila pengklafikasian semula kepada tanah zon bercampur dikuatkuasakan yang mana adalah sembilan hari, pertukaran dalam pengklasifikasian tanah mesti dimasukkan ke dalam penaksiran ke atas nilai pasaran tanah tersebut (lihat perenggan 6 & 8).

(2) Mahkamah berpendapat bahawa Lot 3486 adalah perbandingan terbaik jualan kerana ia adalah hampir kepada tanah pembantah. Fakta bahawa jualan Lot 3486 dibuat pada tahun 2000 sementara pengambilan tanah tersebut adalah pada 31 Oktober 2002 hampir dua tahun kemudiannya, ini menjustifikasikan pelarasan menaik kepada harga jualannya memandangkan selalu terdapat kenaikan dalam nilai tanah dengan peredaran masa. Oleh itu, nilai pasaran tanah pembantah pada tarikh s 48 pemberitahuan *warta* adalah RM40 satu meter persegi (lihat perenggan 13–14).]

Notes

For cases on compulsory acquisition of land, see 8(2) *Mallal's Digest* (5th Ed, 2015) paras 2356–2364.

Cases referred to

Ang Chin Hiang @ Felix Ang Chin Hiang & Ang Siak Chin @ Ang Sek Chin (f) v Superintendent of Lands and Surveys, Samarahan [2009] MLJU 256; [2009] 8 CLJ 639, HC (refd)

Jais bin Chee & Ors v Superintendent of Lands and Surveys Kuching Division, Kuching [2014] 6 MLJ 439, CA (distd)

Noorlela bt Mohd Suhaili v Superintendent of Lands and Surveys, Kuching Division (LR No 15–2–2009 of II) (unreported) (refd)

Superintendent of Lands and Surveys, Sarawak v Aik Hoe & Co Ltd [1966] 1 MLJ 243, FC (refd)

Toh Teck Huat & Anor v Superintendent of Lands and Surveys, Kuching (LR No 15–6 of 2006–II) (unreported) (refd)

Vyricherla Narayana Gajapatiraju (Raja) v Revenue Divisional Officer, Vizagapatam [1939] AC 302, PC (refd)

Legislation referred to

Federal Constitution art 13
Land Code (Cap 81) ss 47, 48, 60(1)(a), (1)(b), 65(1)

Leornard Shim (Nicholas Wung with him) (Reddi & Co) for the objector.
Dayang Jamillah Tun Salahuddin (State Legal Officer, State Attorney General's Chambers) for the defendant.

Rhodzariah Bujang J:

[1] Per chance this would be my second decision in respect of the same action filed by Ibraco Properties Sdn Bhd ('Ibraco') against the Superintendent of Lands and Surveys Kuching Division arising out of their dissatisfaction with the awards of compensation paid for the compulsory acquisition by the said superintendent of their lands. In the three earlier cases, LR No 15–9 of 2009–III, LR No 15–10 of 2009–I and LR No 15–11 of 2009–II but heard together in a consolidated trial, their three pieces of land were acquired for the building of a community clinic in the area of Tabuan Jaya where they were located.

[2] In this present case, five parcels of their lands were acquired, according to the *gazette* notification No 3813 dated 31 October 2002 made pursuant to s 48 of the Sarawak Land Code, for road construction. The five parcels of land, parts of larger lots ie parent lots are all situated in Block 11 Muara Tebas Land District and their reference numbers are:

(a) Lot 13330 (Parent Lot's No is Lot 583) classified as native area land with title expiring on 31 December 2069;

(b) Lot 13338 (Parent Lot's No is Lot 4095) classified as native area land with title in perpetuity;

(c) Lot 13341 (Parent Lot's No is Lot 4959) classified as native area land with title in perpetuity;

(d) Lot 13346 (Parent Lot's No is Lot 4089) classified as native area land with title in perpetuity; and

(e) Lot 13368 (Parent Lot's No is Lot 4095) classified as native area land with title in perpetuity.

[3] In terms of location, they are not far from the runway of the Kuching International Airport. At the time when the said *gazette* notification was published, the classification for the five parcels of land were native area land but on 23 January 2003, they were reclassified as mixed zone land and the effective date of the re-classification was 9 November 2002 ie just about nine days after the s 48 *gazette* notification. The respondent conducted the inquiry to determine the compensation to be paid for the land only on 20 August 2003 ie after the re-classification have been made. There was of course an intervening period of about ten months from the date of the said s 48 *gazette* notification to the date of inquiry. After the inquiry, the superintendent valued the said lands at RM30 per sqm based on its original classification and assessed the compensation at RM385,134 which was accepted by Ibraco under protest. I would, despite the acquisition but for the sake of simplicity, still refer to these five parcels of land as 'the objectors land' unless there is a need to specifically

mention or single out any one or more parcels or lots.

DATE OF VALUATION

[4] The first issue which I must decide is the time frame when the market value of these lands should be considered — is it as at the date of the s 48 *gazette* notification or as at the date of the inquiry. This is crucial for only after its determination would I know which sale comparables to adopt in deciding the market value of the land. The Federal Court has offered the guidelines for determining that market value from the sales of land in the vicinity of an objector's land transacted at around the same time as its acquisition which Mr Leonard Shim for the objector has aptly quoted in his written submission. The aforesaid decision is *Superintendent of Lands and Surveys, Sarawak v Aik Hoe & Co Ltd* [1966] 1 MLJ 243 which in turn quoted from pp 245–246 thereof, the Privy Council's decision in *Vyricherla Narayana Gajapatiraju (Raja) v Revenue Divisional Officer, Vizagapatam* [1939] AC 302 from pp 312–313 as follows:

> The compensation must be determined ... by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy must alike be disregarded. Neither must be considered as acting under compulsion. This is implied in the common saying that the value of the land is not to be estimated at its value to the purchaser ... it may also be observed in passing that it is often said that it is value of the land to the vendor that has to be estimated. This, however, is not in strictness accurate. The land, for instance, may have for the vendor a sentimental value far in excess of its 'market value'. But the compensation must not be increased by reason of any such consideration. The vendor is to be treated as a vendor willing to sell at the 'market price' ... It is perhaps desirable in this connection to say something about this expression 'the market price'. There is not in general any market for land in the sense in which one speaks of a market for shares or a market for sugar or any like commodity. The value of any such article at any particular time can readily be ascertained by the prices being obtained for similar articles in the market. In the case of land, its value in general can also be measured by a consideration of the prices that have been obtained in the past for land of similar quality and in similar positions and this is what must be meant in general by 'the market value' ...
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> At p 313 he went on to say that *when determining the market value of vacant land its potentialities must be taken into account*:
>
> *... it has been established by numerous authorities that the land is not to be valued merely by reference to the use to which it is being put at a time at which its value has to be determined ..., but also by reference to the uses to which it is reasonably capable of being put in the future. No authority indeed is required for this proposition. It is a self-evident one.* No one can suppose in the case of land which is certain, or even likely, to be used in the immediate or reasonably near future for building purposes, but which at thevaluation date is waste land or is being used for agricultural purposes, that the owner, however willing a vendor, will be content to sell the land for its value as waste or agricultural land as the case may be. *It is plain that, in ascertaining its value the*

possibility of its being used for building purposes would have to be taken into account. (Emphasis added.)

[5] Although the said decision provides for the adoption of the Privy Council's decision on what is meant by market value and its basis for assessing adequate compensation, I cannot lose sight of the fact that after that Federal Court decision, the Sarawak Land Code was amended by the Land Code (Amendment) Ordinance 1998 which took effect on 1 January 1999 where s 60(1)(a) was legislated as follows:

> Matters to be considered in determining compensation:
>
> 60(1) In determining the amount of compensation to be awarded for land resumed under this part, the court shall take into consideration the following matters and no others:
>
> (a) the market value at the date of the publication of the notification under section 47 or, if no such notification has been published, the market value at the date of the posting of the declaration made under section 48.
>
> (b) any increase in the value of the other land of the person interested likely to accrue from the use to which the land resumed will be put.
>
> (c) ...
>
> (d) ...
>
> (e) ...
>
> (f) ...

[6] Given the mandatory word 'shall' in this provision, it would appear that, as far as this case is concerned and because there was no such notification made under s 47, that of s 48 must be applied. However, the Court of Appeal has in *Jais bin Chee & Ors v Superintendent of Lands and Surveys Kuching Division, Kuching* [2014] 6 MLJ 439 held that when the inquiry was not done within a reasonable time frame from the date of the s 48 *gazette* notification, the market value of the land must be considered at the time when the inquiry was held. In the words of David Wong Dak Wah JCA this is what the Court of Appeal said at p 448:

> [24] Reverting to the appeal at hand, all the appellants only want is that the compensation amount to be paid for the acquisition is to be premised on the date of inquiry which was held on 24 November 2005. We find that request not only reasonable but also would be consistent with the spirit of art 13 which commands 'adequate compensation' to be given to the appellants. The word 'adequate compensation' must be given their proper interpretation. The word 'adequate' can only mean what is fair and reasonable compensation and in the context of this case the value should be that as at 24 November 2005 and calculated by OW1. What is 'fair and reasonable' compensation cannot by any stretch of imagination the compensation amount awarded by the respondent. The rationale in *Ismail Bakar &*

Ors similarly applies with full force in this appeal.

[25] We are fully aware of the wordings in s 60 of the Sarawak Land Code dictate that the 1996 valuation is to be used as the compensation to be paid. As we mentioned above, all statutes be in federal or state must be read having regard to the Federal Constitution and in this case, art 13.

[7] His Lordship then concluded the legal analysis of the said provisions of the Land Code and art 13 of the Federal Constitution as follows:

[28] Applying the above principles set out above, we are of the considered view that section 60(1)(a) of the Sarawak Land Code read with art 13 of the Federal Constitution demands that the *section 51 inquiry for compensation to be paid be conducted within a reasonable time frame so that an 'adequate compensation' can be ascertained.* In the case at hand, the section 51 inquiry was not conducted until some nine years later. In order not to infringe art 13 of the Federal Constitution, we are constrained to find that the 'adequate compensation' to be the amount valued as at 12 August 2005. (Emphasis added.)

[8] Ever respectful of the doctrine of stare decisis, I am unable to accede to Mr Leonard Shim's reliance on the ratio in *Jais Chee*'s case in this one simply because the difference between the date of the s 48 *gazette* notification and the date of inquiry is a mere eight months whereas that in *Jais Chee*'s case was an inordinate period of nine years. In other words, the fact in this case distinguishes the application of the ratio in the cited case because the intervening period of eight months can still, in my view, be considered as reasonable. Therefore, as at that date of the s 48 *gazette* notification, the said lands were still classified as native area land and not mixed zone land. Nonetheless, premised on the fact and given the sheer proximity of the date when the reclassification to mixed zone land was made effective, ie nine days as stated earlier, the change in land classification must be factored into the assessment on the market value of the land. The *gazette* notification on the re-classification is on 23 January 2003 exhibited as 'Appendix DR4' to the respondent's second witness's witness statement ie Puan Dayang Rodziah Awang Shuib ('RW1'). This is because the change in the said classification could not have been done overnight — the decision to do so must have been in the pipeline for some time although the respondent's valuer Puan Norlina bt Ra'ee ('RW2') when asked by Mr Leornard Shim was unable to say how long the process would take but it was not, she said done in a week. I believe I am allowed to consider that change in the land classification by reason of s 60(1)(b) of the Land Code reproduced above because the lands acquired were all part of larger parcels of land ie parent lots. However, I must hasten to add that saying so does not mean that I agree to consider the sales of mixed zone lands in the vicinity of the objector's lands as good comparables to determine the market value of the said lands but to give a percentage increment to the account for that fact. This approach in my view would be a compliance with the letter of the law

ie s 60(1)(a) and (b) of the Land Code as well as doing justice to the objector because the potentiality of the reclassification to mixed zone land means the increased in value of the lands since they are no longer restricted to native owners or buyers only. I have consistently made that observation about the higher value of mixed zone land in two other land reference cases ie *Ang Chin Hiang @ Felix Ang Chin Hiang & Ang Siak Chin @ Ang Sek Chin (f) v Superintendent of Lands and Surveys, Samarahan* [2009] MLJU 256; [2009] 8 CLJ 639 at p 647 and in the earlier *Ibraco*'s case which I mentioned at the beginning of this judgment. What that percentage would be I would say after I have decided on this one issue and that is whether the sale of the objector's own land to their own director and/or shareholder is a good sale comparable.

RELATED PARTY TRANSACTION

[9] In the earlier *Ibraco*'s case I have refused to use the sales of lands by Ibraco's shareholders to Ibraco used by the respondent's valuer even though it was closest to the subject land because it was not transacted at arm's length. This was the view I took in an earlier land reference than that ie *Noorlela bt Mohd Suhaili v Superintendent of Lands and Surveys, Kuching Division* (LR No 15–2 of 2009–II) (unreported) where the sale was that by a director to his own company. That, by the way, was the same view adopted by Ravinthran a/l Paramaguru JC (as His Lordship then was) in *Toh Teck Huat & Anor v Superintendent of Lands and Surveys, Kuching* (LR No 15–6 of 2006–II) (unreported) and His Lordship decision was appraised by Mr Leornard Shim to me in his written submission. Why I have to mention these related party transaction is because Puan Norlina bt Ra'ee had used four sales by the shareholders and/or directors of the objector of their shares in the same parcels of land in this case which was transacted in June 2002 where the price per hectare works out to be between RM299,822.90 – RM300,000. That price of RM300,000 or RM30 per sqm was adopted by her in this case. The one other sale comparable used by her was also featured in the report of the valuer called by the objector, Ms Yip Phooi Leng ('OW1') ie sale No 8 in respect of Lot 3486 which was transacted in 2000, ie two years earlier at the sale price of RM231,750 at RM24.12 per sqm but re-transacted in 2002 at RM1m together with a neighbouring parcel of land, Lot 3482. Ms Yip Phooi Leng in the valuation report prepared by her had incorrectly put this sale together with the comparable sales of native area land but the said Lot 3482 was at the time of the sale in 2002, a mixed zone land and the title should be in perpetuity and not expiring on 31 December 2039 as stated by her (see p 15 of exh OP1, ie the valuation report prepared by her). The huge difference in the value of the said Lot 3482, as explained by Puan Norlina bt Ra'ee was because when it was re-sold in 2002, the land had been approved for development ie it was given a planning approval by the authorities. I must also mention the undisputed evidence from Ms Dayang Rodziah that this Lot 3482 was *gazetted* together with Lot 3486 as mixed zone land vide *gazette* notification No 18 which took

effect on 11 April 2002. This *gazette* notification is exhibited to Appendix D7–7 to her witness statement. That being the case, and on the above facts, its sale in 2002 cannot be a good comparable for the objector's land. However its sale, per se is a good comparable because in terms of vicinity to the subject land it is the nearest as can be seen from the locality plan exhibited at p 30 of exh OP1. However, adjustments must be made to the transacted price which I will mention after giving a summary of the assessors' opinion.

THE ASSESSORS' OPINION

[10] I was assisted at the trial by two court appointed assessors — Mr Basarudin bin Mohd Basir ('Mr Basarudin'), the Director of the Department of Valuation and Properties Services Sarawak and a private valuer, Mr Alex Ting Kwong Kuo ('Mr Alex Ting') from the firm of A Ting & Assoc. They each came with a differing opinion on the market value of the land although both were unanimous that the compensation was inadequate and should be increased, that the internal or party to party transactions are not good comparable sales and that the land be valued as mixed zone land.

[11] Mr Basarudin opined that the relevant date for the valuation should be 31 October 2002 ie the date of the s 48 *gazette* notification whereas Mr Alex Ting said it should be as at the date of inquiry ie 20 August 2003. Both have given me their written opinion and the pertinent facts stated therein I have taken the liberty to tabulate below and in doing so I used the parent lot numbers because that was what the learned assessors did.

Assessor's name	Lot No	Area of land in sq m acquired	Amount of compensation paid at the flat rate of RM30 per sqm	Amount and rate of compensation proposed
Mr Alex Ting	4098	1,997	RM59,910	RM169,745 @ RM85 per sqm.
	4095	5,531	RM165,930	RM376,108 @ RM68 per sqm.
	4959	576.20	RM17,286	RM39,181.60 @ RM68 per sqm.
	4089	4,133	RM123,990	RM264,512 @ RM64 per sqm.
	583	600	RM18,018	RM31,831.80 @ RM53 per sqm.

Assessor's name	Lot No	Area of land in sq m acquired	Amount of compensation paid at the flat rate of RM30 per sqm	Amount and rate of compensation proposed
Mr Basarudin	4098	1,997	RM59,910	RM139,790 @RM70 per sqm.
	4095	5,531	RM165,930	RM276,550 @ RM50 per sqm.
	4959	576.20	RM17,286	RM28,810 @ RM50 per sqm.
	4089	4,133	RM123,990	RM206,650 @ RM50 per sqm.
	583	600	RM18,018	RM18,018 @ RM30 per sqm.

MY DECISION

[12] I must record my sincere appreciation and I am indebted to the two learned assessors for their well-considered opinions but it is obvious from the explanation and/or consideration I have made earlier that I am not in the same plane with one or the other with regards to the relevant date of the valuation and the category or classification of land use for the five parcels of land. I must reiterate however that I am of the like mind with both of them that the compensation paid at RM30 per sqm is totally inadequate, premised as it were on the earlier inter-party sales of the shares in the same parcels of land by the objector to its own directors and/or shareholders ie Wan Kamal Ibrahim, Sharifah Deborah Sophia Ibrahim and Wan Aziz Ibrahim.

[13] What I would do next would be to tabulate what I believe should be the market value of the land based on the 2000 sale price of Lot 3486 which, as I said earlier was Puan Norlina's comparable sale number 1 and Ms Yip Phooi Leng's sale No 8. In my view Lot 3486 is the best comparable sale because it is nearest to the objector's land compared to the other sales used by Ms Yip Phooi Leng for the native area land ie sales Nos 1–7 in her report. The adjustment I am about to make to this comparable sale would be in terms of the date of its transaction.

[14] The fact that the sale of Lot 3486 was made in 2000 whereas that of the acquisition on 31 October 2002 was almost two years later, justifies in my view an upward adjustment to its sale price since there is always an increase in land value with the passing of time. That would be an additional 25% increment to its transacted price of about RM24 per sqm and another 40% increment on top of that for the potential change in the land use of the objectors land from native area land to mixed zone land as opined by me earlier. Adding this 65% to that transacted price means an increment by RM15.60 per sqm which I will round up to RM16. Therefore, the market value of the objectors land as at the date of the s 48 *gazette* notification is in my view RM40 per sqm. Following Puan Norlina's method, I would adopt this rate across the board for all five parcels of land without making any deductions for their distance from Lot 3486 since these lands are all in the same vicinity although only one of them, ie Lot 13368 (Parent Lot 4095) adjoins Lot 3482 and even though for one of the parcel of land ie Lot 13330, the title is due to expire on 31 December 2069 whereas the others have titles in perpetuity. The location of these lands can be seen from the locality plan reproduced at pp 30–31 of Ms Yip's report ie exh OP1.

[15] As promised earlier and for ease of reference, the market value for the objector's land are tabulated as follows:

Lot No	Compensation paid @ RM30 per sqm	Market value determined after trial	Difference to be paid
4098	RM59.910 for 1997 sq m	RM79,880	RM19,970
4095	RM165,930 for 5531 sq m	RM221,240	RM55,310
4959	RM17,286 for 576.20 sq m	RM23,048	RM5,762
4089	RM123,990 for 4133 sq m	RM165,320	RM41,330
583	RM18,018 for 600.6 sq m	RM24,024	RM6,006

[16] Thus, from my calculation above, the respondent has to pay a difference of RM128,378 as compensation for the objectors land with interest at 4%pa from the date of possession until full settlement and I so order. Both assessors' fees at RM100 each as provided under s 65(1) of the Land Code are to be borne equally by the parties herein.

Order accordingly.

Reported by Dzulqarnain Ab Fatar